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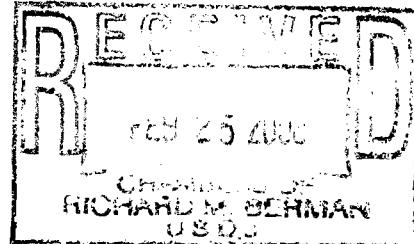
**MEMO ENDORSED**

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February 22, 2008

**VIA FEDERAL EXPRESS**

Honorable Richard M. Berman  
United States District Judge  
United States Courthouse  
500 Pearl Street, Room 650  
New York, New York 10007-1581



**Re: Diaz et al. v. Scores Holding Co., Inc. et al.  
Case No. 07 Civ. 8718 (S.D.N.Y. Judge Berman)**

Dear Judge Berman:

This firm represents Scores Holding Company, Inc. and Go West Entertainment, Inc. ("Go West") in the above-referenced purported collective action pursuant to the Fair Labor Standards Act and purported class action of state wage/hour claims pursuant to Rule 23 of the Federal Rules of Civil Procedure.

We write to seek the Court's intervention in the refusal of Plaintiffs' counsel to schedule the depositions of Plaintiffs Siri Diaz, Susan Levin, and Danielle Owimrin in this action. Presently before the Court are the parties' respective motions, which have not yet been fully briefed.

One of the issues to be decided by the Court is whether the Plaintiffs are similarly situated with other members of the collective action. In view of the need to brief this issue, on December 3, 2007, Go West specifically noticed the depositions of all Plaintiffs. All depositions were scheduled to take place on January 8-11, 2008.<sup>1</sup> Plaintiffs' counsel claimed that none of the deponents were available during their scheduled deposition date. Despite repeated and ongoing attempts to re-schedule the deposition dates – including the offer of 13 separate dates in February alone – Plaintiffs' counsel has stalled the depositions of Diaz, Levin, and Owimrin for one and a half (1½) months and still, to the present date, has failed to offer any dates of availability for any of the three (3) remaining Plaintiffs.

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<sup>1</sup> After Plaintiff Susan Levin opted in, Go West requested and then noticed the deposition of Ms. Levin for February 15, 2008, but Plaintiffs' counsel contended that she was unavailable on February 15 and has since refused to schedule another date. Since Ms. Levin resides in Texas, Go West has requested a telephone deposition of this Plaintiff.

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The depositions of all Plaintiffs is crucial. Based on the depositions of the two (2) cocktail servers – Talia Bumb and Carolyn Siegel – each of whom were employed for a mere one month, Go West was able to demonstrate that they were not similarly situated to each other. Plaintiff Blerta Vikki – the only dancer deposed to date – disclaimed and contradicted the statements made in the declaration purportedly submitted on her behalf by Plaintiffs' counsel. Apparently concerned by these developments, Plaintiffs' counsel has resolved not to allow any further depositions to take place and to seek the Court's ruling on their motion for conditional certification without their benefit.

Go West is severely prejudiced by not being able to conduct proper depositions of all Plaintiffs to obtain evidence in support Go West's argument that Plaintiffs are not similarly situated. Accordingly, Go West respectfully requests that the Court adjourn the date for Go West's final submission on the pending motions until after the depositions of the three (3) remaining Plaintiffs and that such depositions be compelled without further delay. Go West stands ready to conduct the depositions at any time, on short notice, and will conduct two or three depositions in a single day if necessary.

The undersigned hereby certifies that I have attempted in good faith to confer with Plaintiffs' counsel about this matter, but Plaintiffs' counsel has failed and refused to provide dates of availability for the three depositions sought. Thank you for your assistance.

Sincerely,



Neil A. Capobianco

cc: Justin M. Swartz, Esq. (via e-mail (jms@outtengolden.com))

Take up discovery issues w/ the  
judge Kotz. Time to file  
reply brief is extended from  
2/29 to 3/17 to permit inclusion  
of discovery if discovery is  
approved by J. Kotz.

**SO ORDERED:**

Date: 2/25/08



**Richard M. Berman**  
Richard M. Berman, U.S.D.J.